IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 1852 OF 1984

with

FIRST APPEALS NO. 1853 OF 1984 TO 1857 OF 1984

For Approval and Signature:

HON'BLE MR.JUSTICE J.N.BHATT
and
HON'BLE MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

MINOR DEEPABEN D/O. RAJENDRAKUMAR SHANKERLAL JOSHI

Appearance:

1. First Appeal No. 1852 of 1984
MR MD PANDYA for Appellant
BALKRISHNA ACHARYA for Respondent No. 1-2
NOTICE SERVED for Respondent No. 3-5
MR RR MARSHALL for Respondent No. 6

2. First Appeal No. 1853 of 1984
MR MD PANDYA for Appellant
MR HM PARIKH for Respondents No. 1 to 7
MR RR MARSHAL for Respondent no. 8.

3. First Appeal No. 1854 of 1984
MR MD PANDYA FOR Appellant
MR VH. DESAI for Respondents no. 1 to 5
RESPONDENTS NO. 6, 7 AND 8 SERVED.
MR RR MARHSAL FOR Respondent no. 9.

4. First Appeal No. 1855 of 1984
MR MD PANDYA FOR Appellant.
MR BA SURATI For Respondent No.1.
Respondents no. 2,3, and 4.
MR RR MARHSAL for Respondent no. 5.

5. Firest Appeal No. 1856 of 1984
MR MD PANDYA for Appellant.
MR SANJAY AMIN FOR Respondent no. 1.
Respondents No. 2, 3 and 4 served.
MR RR MARSHAL for respondent no. 5.

6. First Appeal No.1857 of 1984
MR MD PANDYA FOR Appellant
Respondents no. 1 and 2 served.

CORAM : HON'BLE MR.JUSTICE J.N.BHATT
and
HON'BLE MR.JUSTICE KUNDAN SINGH

Date of decision: 09/10/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE J.N.BHATT)

1. Heard.

2. In this group of six First Appeals under the provisions of Section 110-A of the Motor Vehicles Act, 1939, at the instance of the original opponent no. 2 Gujarat State Road Transport Corporation (GSRTC) challenging the common judgment and award passed in six Motor Accident Claims Petitions passed by the Motor Accident Claims Tribunal (Main) Nadiad in composite judgment, dated 3rd May, 1984, in relation to the claims made for compensation by the heirs and legal representatives of deceased victims and three claims made

by three injured victims of unfortunate road accident which took place, on 3-6-1981, between S.T. Luxury Bus No.GRS 7851, and Truck No. GDS 4182, near village Dantali on National Highway No. 8.

3. The respondents original claimants claimed compensation from both the vehicles' parties, inter-alia contending that both the drivers were rash and negligent and responsible for the accident occurred in the middle of the road. Front portion of both the vehicles was smashed and resulted into toll of three young promising persons travelling in S.T. Luxury Bus No. GRS 7851 and causing injuries to other passengers travelling in the same bus, whereas, the driver of the truck was also injured who has filed separate petition claiming the compensation against the Gujarat State Road Transport Corporation.

4. Luxury bus and the truck parties tried to throw blame on each other for happening of unfortunate accident. Amount of compensation was also questioned by the appellant - original respondent. After having taken into consideration the factual profile including panchanama and evidence, the Tribunal reached to a conclusion that both the drivers were guilty and responsible for happening of the unfortunate road mishap. In other words, it has been found and held by the Tribunal on the basis of the evidence that each driver contributed to the extent of 50%. Both the drivers were plying vehicles on the National Highway No. 8 in the middle of the road looking to the manner and mode in which the accident occurred in the middle of the road on National Highway No.8 burden and liability for the happening of the unfortunate road mishap made by the Tribunal cannot be said to be illegal requiring interference by this Court in this group of appeals.

5. Obviously therefore, it would be necessary to examine, appreciate and adjudicate upon second vital issue in such an accident pertaining to quantification of damages in our opinion, after having considering documentary evidence viva voce evidence, nature and number of injuries sustained by the claimants who are living victims of violent road accident and loss of three promising young persons, one of them was a Medical Practitioner, and other one being a businessman, amount of compensation awarded by the Tribunal upon assessment of the evidence and evaluation of the principles of law of tort is, in our opinion, on conservative side requiring no interference in this group of appeals, at the instance of Gujarat State Road Transport Corporation.

6. We have examined the merits of each case and particular records of the persons. We have, also, critically evaluated the factual and legal profile highlighted by the Tribunal in the impugned common judgment in six petitions and we have also taken into consideration two main heads for awarding amount of compensation and the economic status, promising career of the deceased persons and the nature and number of injuries, period of treatment, spell of hospitalization and expenses incurred by the injured persons. Viewed in light of the relevant principles and propositions of law of tort governing the amount of compensation, we have no hesitation in finding even quantification of damages made by the Tribunal in factual and legal background emerging from the record of the present case is quite legal and moderate if not conservative.

7. It is well settled principle of law that the Appellate Court in exercise of power under the Motor Vehicles Act, would be very slow to interfere with the discretionary power exercised by the Tribunal in consideration of the issues of negligence and assessment of damages for the injuries or fatal case unless the amount of compensation awarded by the Tribunal is prima facie, shown to be excessive or inadequate, which is not the case in the present group of appeals. Therefore, we have no hesitation in finding that all these six appeals are without any merits and substance deserving only and only one legal fate of dismissal, with a direction to pay amount of compensation as directed by the Tribunal, if not so far paid to the victims of the road accident, within four weeks from today, failing which it will be open for the concerned parties appropriately to take further action for recovery.

9. In our conclusion, the entire discussion can be articulated and highlighted in the following Tabular Form for convenience and easy understanding.

Sr. NO.	MACP NO.	FA NO.	FATAL /INJURY	COMPENSATION CLAIMED IN	COMPENSATION AWARDED
1.	2.	3.	4.	5.	6.
1.	1852/84	443/81	Fatal	6,00000/-	2,21000/-

2. 1853/84 548/81 Fatal 3,00000/- 0,58000/-
3. 1854/84 649/81 Fatal 0,50000/- 0,50000/-
4. 1855/84 740/81 Injury 1,50000/- 0,48756/-
5. 1856/84 783/81 Injury 0,75000/- 0,26774/-
6. 1857/84 634/81 Injury 0,30000/- 0,15763/-

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8. In so far as First Appeal No. 1857 of 1984 arising out of M.A.C. Petition No. 783 of 1984 is concerned, the original injured claimant has filed cross-objections. The Tribunal has awarded amount Rs.26,774/- against original claim of Rs.75,000/-. It appears from the record that the injured had sustained two fractures, one of rib and other of clavicle bone. He was shifted to the hospital where he was kept as an indoor patient for 9 days. He was doing agricultural operations and he has sustained permanent partial disablement to the extent of 8%. So far as other part of the body is concerned, he was 29 years of age at the relevant time, assessment of the compensation for young man of 29 years who sustained permanent partial disablement to the extent of 8% made by the Tribunal is inadequate and in our opinion in light of the facts and circumstances of the case and loss of earning suffered by the victim of the road accident, the amount of compensation under both the heads ought to have been given Rs.45,000/- instead of Rs.26,774/- and by virtue of this cross-objections, he would be entitled to additional amount and he will be entitled total Rs.45,000/- by way of compensation under both the heads for the tortious act of the original respondents and he would be entitled to recover and all the original opponents shall be liable to pay the total amount of Rs.45,000/- from the date of the application till payment on the same rate of interest awarded by the Tribunal. Accordingly, cross-objections stand partly allowed.

(J.N. Bhatt, J.)

(Kundan Singh, J.)

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